

## **TENTATIVE RULINGS for CIVIL LAW and MOTION**

### **May 6, 2010**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

#### **TENTATIVE RULING**

**Case:** **Anderson v. Grant Park Homes**

**Case No. CV CV 06-2070**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

Defendants' motion for judgment on the pleadings is **DENIED**. (Civ. Code, § 798.84; Code Civ. Proc., §438; Complaint ¶ 87.) Defendants argue that plaintiffs' complaint fails to state facts sufficient to state a cause of action against defendants because plaintiffs failed to serve the statutorily required 30 days written notice of their complaints against them. (Civ. Code, § 798.84.) The only cause of action in the complaint that arguably comes under Civil Code section 798.84 is the eighth cause of action for breach of the covenant of quiet enjoyment. The eighth cause of action alleges that defendant failed to properly **construct** and maintain the drainage areas, driveways and roadways. (Complaint ¶ 85, emphasis added.) Of import, that cause of action also contains the following allegation: "Plaintiffs have provided statutory notice of the Defendants' failure to properly maintain the park and the Park has failed to correct the condition." (*Id.* ¶ 87.) Thus, plaintiffs have stated facts sufficient to state a cause of action under Civil Code section 798.84. Moreover, because the cause of action includes allegations of improper construction, a claim not covered by Civil Code section 798.84, defendants' motion for judgment on the pleadings would not dispose of the entire eighth cause of action and is therefore, improper. (*Fire Ins. Exch. v. Superior Court* (2004) 116 Cal.App.4th 446, 451.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

#### **TENTATIVE RULING**

**CASE:** **Arcilla v. Community Housing Opportunities Corporation**

**Case No. CV CV 08-2570**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

**Evidentiary objections:** The evidentiary objection by Community Housing Opportunities Corporation ("CHOC") to Exhibit D to the Declaration of Aldon Bolanos is **SUSTAINED**. (Evid. Code, § 1400.) All other evidentiary objections by CHOC are **OVERRULED**. (Cal. Rules of Court, rule 3.1354(b) and (c).)

**CHOC's motion for summary adjudication as to the first cause of action for retaliation in violation of Labor Code section 1102.5:**

(1) Motion based on Labor Code section 1102.5, subdivision (b): This motion is **GRANTED**. There is no evidence in the record that Plaintiff disclosed information to a government or law enforcement agency. (Response to form interrogatory no. 208.1.)

(2) Motion based on Labor Code section 1102.5, subdivision (c): Plaintiff's first and second causes of action are based on the five protected activities described in his response to Separate Statement of Undisputed Material Fact ("SSF") no. 13.

The motion based on the transfer of money from the replacement reserves account to the operating account for Danbury Apartments is **GRANTED**. Labor Code section 1102.5, subdivision (c) requires a showing that the employee refused to participate in an activity that would result in a violation of law. Plaintiff agreed to transfer the above funds. (Exhibit 8 to Arcilla Depo.) Plaintiff admitted that he agreed with Manuela Silva's reasoning for the transfer. (Arcilla Depo 30: 4-39: 2 and Exhibit 8 thereto.) To establish a prima facie case of retaliation a plaintiff must show a causal link between his/her protected activity and the employer's adverse employment action. (*Mokler v. County of Orange* (2007) 157 Cal.App.4th 121, 138.) "Essential to a causal link is evidence that the employer was aware that the plaintiff had engaged in the protected activity." (*Morgan v. Regents of University of Calif.* (2000) 88 Cal.App.4th 52, 69-70.) Because of Plaintiff's agreement to the transfer of funds, Plaintiff cannot establish that CHOC knew that he opposed transferring funds between the Danbury Apartments accounts. As for the claim based on Penal Code section 487 and this fund transfer, there is no evidence of intent to steal or that the transfer was unlawful.

The motion based on the transfer of money from the operating fund to the development fund for the Washington Square/Sherwood Court Apartments is **GRANTED**. The evidence does not establish that Plaintiff refused to participate in this fund transfer. Plaintiff fails to specify what HUD regulation(s) the transfer violates. The Court will not guess as to what state or federal statute, rule or regulation this transfer would violate. There is no evidence establishing that this fund transfer was unlawful.

The motion based on invoicing multiple partners for a software program is **GRANTED**. Plaintiff fails to present competent evidence in support of his assertion about "secret fraudulent invoicing" for a software program and the funneling of public money into a development fund.

The motion based on Penal Code sections 424 and 487b is **GRANTED**. There is no evidence in the record that Manuela Silva or any other individual who allegedly engaged in misconduct is an officer of this State or of a county, city, town or district of this State or was charged with the receipt, safekeeping, transfer, or disbursement of public money. There is no competent evidence supporting the assertion that tax dollars were involved in any transaction Plaintiff complains about. There is no evidence in the record or allegation that anyone converted real estate. There is no evidence that Plaintiff refused to participate in an activity that would violate these statutes.

The motion based on Civil Code sections 1572 and 3336 is **GRANTED**. There is no triable issue of fact about whether CHOC or any of its employees made any suggestion, assertion, promise, or statement to or suppressed any fact from another party to a contract with CHOC, with the intent to deceive such party or to induce such party to enter into a contract with CHOC. Civil Code section 3336 governs the measure of damages for conversion of personal property; there is no triable issue of fact about whether any act Plaintiff complains of violates Civil Code section 3336. There is no evidence that Plaintiff refused to participate in an activity that would violate these statutes.

The motion based on Corporations Code section 419 and Revenue and Taxation Code sections 24347 and 24431 is **GRANTED**. There is no evidence that Plaintiff refused to participate in an activity that would violate these statutes. There is no evidence in the record regarding the issuance of share certificates in violation of Corporations Code section 419.

The motion based on the Fair Employment and Housing Act (“FEHA”) is **GRANTED**. As discussed below, there is no triable issue of fact about age discrimination. There is no evidence that Plaintiff refused to participate in an activity that would violate the FEHA.

The motion based on Department of Housing and Urban Development (“HUD”) regulations, the Federal Tax Code, and the regulations of the California Housing Finance Agency, the California Housing and Community Development Agency, and the California Tax Credit Allocation Committee (“Administrative Regulations”) is **GRANTED**. Plaintiff fails to specify the provision(s) or regulation(s) at issue. (*Turner v. Anheuser-Busch, Inc.* (1994) 7 Cal.4th 1238, 1257.)

The motion based on General and Accepted Accounting Principles (“GAAP”) is **GRANTED**. GAAP does not constitute a federal or state statute, rule or regulation.

The motion based on Penal Code section 487 and the withdrawal of \$30,000 from the Danbury Apartments account/project for the purpose of making a deposit into an Individual Development Account unrelated to Danbury Apartments is **DENIED**. There is a triable issue of material fact about whether Plaintiff refused to participate in this transaction and whether this transaction violates Penal Code section 487. (Response and supplemental response to form interrogatory no. 205.1; amended response to special interrogatory nos. 7 and 14; Arcilla Depo. 193: 13-194: 23; Wilson Depo. 42: 4-13.)

The motion based on Penal Code section 487 and credit card charges is **DENIED**. There is a triable issue of fact about whether Plaintiff opposed the payment of improper credit card charges and whether such charges violate Penal Code section 487. (Response and supplemental response to form interrogatory no. 205.1; Arcilla Depo. 48: 16-50: 11; 60: 2-19; 63: 14-65: 13; Wilson Depo. 59: 3-15; Exhibit F to Bolanos Declaration.)

The motion based on Civil Code section 1709 and credit card charges is **DENIED**. There is a triable issue of fact about whether credit card charges by Ms. Silva constitute deceit. (Response and supplemental response to form interrogatory no. 205.1; Arcilla Depo. 48: 16-50: 11; 60: 2-19; 63: 14-65: 13; Wilson Depo. 59: 3-15; Exhibit F to Bolanos Declaration.) The motion based on Civil Code section 1709 and the protected activities described in Plaintiff’s response

to SSF 13 other than credit card charges is **GRANTED**. As discussed above, there are no triable issues of material fact concerning the other alleged protected activities. As for the transfer of Danbury Apartments funds into an unrelated Individual Development Account, there is no evidence of deceit of another with the intent to induce reliance and resulting damages.

**CHOC's motion for summary adjudication as to the second cause of action for wrongful discharge in violation of public policy:**

The motion based on CHOC's internal policies and CHOC's contracts is **GRANTED**. (Response to form interrogatory no. 205.1 and special interrogatory nos. 2-4; *Turner v. Anheuser-Busch, Inc.*, *supra*, 7 Cal.4th at 1257.)

The motion based on Penal Code sections 424 and 487b is **GRANTED** on the same grounds stated in the ruling as to the first cause of action.

The motion based on Civil Code sections 1572 and 3336, Corporations Code section 419, the FEHA, and Revenue and Taxation Code sections 24347 and 24431 is **GRANTED**. There is no triable issue of material fact about whether any act complained of violates the public policy in these statutes. As discussed below, there is no triable issue of fact about age discrimination.

The motion based on Civil Code section 1709 is **GRANTED**. The only claim for deceit for which a triable issue of material fact has been raised involves the interest of CHOC, not of the general public. (*Turner v. Anheuser-Busch, Inc.*, *supra*, at 1256, fn. 10.)

The motion based on HUD regulations, the Federal Tax Code, and Administrative Regulations is **GRANTED**. Plaintiff fails to specify the provision(s) or regulation(s) at issue. (*Turner v. Anheuser-Busch, Inc.*, *supra*, at 1257.)

The motion based on the GAAP is **GRANTED**. GAAP are not statutory, constitutional or regulatory provisions.

The motion based on Penal Code section 487 and the transfer of funds from the Danbury Apartments account/project to an unrelated Individual Development Account is **DENIED**. (*Casella v. SouthWest Dealer Services, Inc.* (2007) 157 Cal.App.4th 1127, 1131 and 1140-1141.) As discussed above, a triable issue of fact exists about whether this fund transfer violates Penal Code section 487.

For the reasons stated in the ruling for the first cause of action, there is no triable issue of fact concerning any of the protected activities listed in Plaintiff's response to SSF 13 other than the fund transfer from the Danbury Apartments account/project to an unrelated Individual Development Account. As for the claim based on charges to CHOC's credit card, there is no evidence that these charges affect a public interest. (*American Computer Corp. v. Superior Court of San Diego County* (1989) 213 Cal.App.3d 664, 665-666.) Accordingly, the motion based on Penal Code section 487 and the protected activities listed in Plaintiff's response to SSF 13 other than the fund transfer from the Danbury Apartments account/project to an unrelated Individual Development Account is **GRANTED**.

For the reasons stated in the ruling on the motion as to the first cause of action, the motion based on Labor Code section 1102.5 is **DENIED**.

**CHOC's motion for summary adjudication as to the third cause of action for intentional infliction of emotional distress:** This motion is **DENIED**. (Supplemental response to form interrogatory no. 212.) For the reasons stated in the ruling as to the second causes of action, a triable issue of fact exists about whether the termination of Plaintiff's employment with CHOC violates the public policy in Penal Code section 487. A violation of California penal law is outrageous *per se*. (Hon. Ming W. Chin, Hon. Rebecca A. Wiseman, Hon. Consuelo Maria Callahan and Alan B. Exelrod, Calif. Practice Guide: Employment Litigation (The Rutter Group 2009) ¶ 5:280.) As for the claim that Plaintiff did not seek medical treatment for his emotional/psychological injuries, Defendant does not cite any authority for the proposition that a plaintiff, who was suffered psychological injuries, cannot recover damages unless he or she has sought medical treatment.

**CHOC's motion for summary adjudication as to the fourth cause of action for age discrimination:** This motion is **GRANTED**. "Where an age-protected worker is replaced by a person not significantly younger, there may be no basis to suspect a motive of prohibited bias." (*Guz v. Bechtel Nat'l, Inc.* (2000) 24 Cal.4<sup>th</sup> 317, 366-369.) The age difference between Plaintiff and Peter Lundberg, the person who apparently took over his duties, – 4 or 5 years – is not significant. (SSF 2; Response to SSF 37; Arcilla Depo. 4:25-5: 2; Silva Declaration ¶ 2). At the time of Plaintiff's discharge, Mr. Lundberg was over 55 years of age. Moreover, the Declaration of Manuela Silva states non-discriminatory reasons for the termination of Plaintiff's employment with CHOC (Silva Declaration ¶¶ 1-3), and Plaintiff did not produce evidence to contradict Ms. Silva's declaration that she eliminated the position of Controller because CHOC needed and had hired a Vice President of Finance who had "advanced and sophisticated knowledge of, and experience with, corporate accounting and real estate finance." Plaintiff failed to produce evidence supporting a rational inference that age-based discrimination was the true cause of his separation from CHOC. (SSF 39-43.)

**CHOC's motion for summary adjudication as to the fifth cause of action for retaliation in violation of the FEHA:** Plaintiff states that he "abandons" this cause of action. Accordingly, this cause of action is **DISMISSED**.

**CHOC's motion for summary adjudication as to the claim for punitive damages:** This motion is **GRANTED**. To defeat summary adjudication on a claim for punitive damages, the plaintiff must produce "clear and convincing evidence" of malice, fraud or oppression. (Civ. Code, § 3294, subd. (a); *Basich v. Allstate Ins. Co.* (2001) 87 Cal.App.4<sup>th</sup> 1112, 1121.) In his brief opposing the motion for summary adjudication of the claim for punitive damages, Plaintiff states that it is shocking that CHOC "games" the system by avoiding the payment of property taxes and providing tax shelters for banks and that Ms. Silva uses taxpayer dollars to fund a lavish lifestyle. Plaintiff failed to produce competent evidence to support either charge. Plaintiff also failed to present clear and convincing evidence that CHOC had advance knowledge of Ms. Silva's unfitness and employed her with conscious disregard of the rights or safety of others; authorized or ratified any wrongful conduct; or was itself guilty of oppression, fraud, or malice. (Civ. Code, § 3294, subd. (b).)

Defendant is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

**TENTATIVE RULING**

**Case:** **Capital One Bank, N.A. v. Lewis, Sr.**

**Case No. CV G 09-3047**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff Capital One Bank, N.A.'s unopposed motion to amend the complaint is **GRANTED**. (Code Civ. Proc., § 473.) Plaintiff shall file the first amended complaint by **May 12, 2010**.

Defendant prematurely filed an answer to the first amended complaint on March 15, 2010. The Court, on its own motion, **STRIKES** defendant's answer filed on March 15, 2010. Defendant shall file his response to the first amended complaint by **May 26, 2010**.

If no hearing is requested, this tentative ruling is effective immediately. Plaintiff shall serve a copy of this tentative ruling on Defendant by **May 6, 2010**. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as noted herein, is required.

**TENTATIVE RULING**

**Case:** **Capital One Bank, N.A. v. Frasier**

**Case No. CV G 09-2846**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff Capital One Bank, N.A.'s unopposed motion to amend the complaint is **GRANTED**. (Code Civ. Proc., § 473.) Plaintiff shall file the first amended complaint by **May 12, 2010**. Defendant shall file his response by **May 26, 2010**.

If no hearing is requested, this tentative ruling is effective immediately. Plaintiff shall serve a copy of this tentative ruling on Defendant by **May 6, 2010**. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as noted herein, is required.

**TENTATIVE RULING**

**Case:** **Chairez v. State Farm Insurance Co.**

**Case No. CV PM 09-175**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

Defendant State Farm Insurance Company's demurrer to each cause of action in the third amended complaint is **SUSTAINED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff's first through eighth causes of action allege that defendant violated Insurance Code sections 790.03 *et seq.* The Unfair Practices Act (Ins. Code, §§ 790 *et seq.*) does not create a private right of action against an insurer. (*Moradi-Shalal v. Fireman's Fund Insurance Company* (1988) 46 Cal.3d 287.) "Neither section 790.03, nor section 790.09 was intended to create a private civil cause of action against an insurer that commits one of the

various acts listed in section 790.03, subdivision (h).” (*Id.* at p. 304.) Therefore, plaintiff fails to state facts sufficient to constitute these causes of action against defendant as a matter of law.

Plaintiff’s first, sixth and ninth causes of action for fraud also fail to state facts sufficient to state a cause of action against defendant as a matter of law because, plaintiff cannot allege that she suffered any injury or damage as a result of defendant’s alleged misrepresentations regarding the time limitations within which to file her complaint because, her action was timely filed. “It is fundamental that, . . . no matter what the nature of the fraud or deceit, unless detriment has been occasioned thereby, plaintiff has no cause of action.” (*Hill v. Wrather* (1958) 158 Cal.App.2d 818, 825.) An alleged misrepresentation that results in a party filing within legal time limits is at most, an immaterial misrepresentation, and does not state a claim for fraud. (*Id.* at p. 824.)

Plaintiff’s seventh cause of action for negligence also fails to state facts sufficient to state a cause of action against defendant as a matter of law because plaintiff cannot establish the element of duty. Plaintiff alleges that she was not a party to the subject insurance contract. (Third Amended Complaint, ¶ 9.) A liability carrier does not owe any duty of care to a stranger to the contract. (*E.G. Adelman v. Associated International Insurance Company* (2001) 90 Cal.App.4<sup>th</sup> 352, 366-69.) A third party claimant has no standing to sue an alleged tortfeasor’s liability carrier. (*Royal Globe Ins. Co. v. Superior Court* (1979) 23 Cal.3d 880, 884 and 891-92.)

Defendant’s motion to strike the claim for punitive damages is **GRANTED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 435 & 436, Civ. Code, § 3291.) Plaintiff failed to and cannot state facts sufficient to state a claim for punitive damages based on malice, oppression or fraud.

Defendant’s request for judicial notice is **GRANTED IN PART**. (Evid. Code, § 452.) The court takes judicial notice of request numbers 1-8, 10 & 11.

If no hearing is requested, this tentative ruling is effective immediately. Defendant is directed to serve a copy of the tentative ruling on plaintiff. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as stated herein, is required.

#### **TENTATIVE RULING**

**Case:** **Coy v. R&S Architectural Products, Inc.**  
**Case No. CV CV 08-2020**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

#### **Plaintiff’s Motion to Continue Trial Date:**

Plaintiff’s motion to continue the trial date is **DENIED**. (Cal. Rule of Court, rule. 3.1332; Dec. of Peter Samuel; Dec. of Carl Samuel; Dec. of Robert Samuel; Dec. of David Newdorf.) Plaintiff fails to show good cause for the continuance.

**Defendants' Motion for Summary Judgment or Summary Adjudication:**

Defendants' motion for summary judgment or summary adjudication is **GRANTED IN PART** as follows:

Defendant R&S Erection, Inc.'s motion for summary adjudication of the second cause of action for intentional infliction of emotional distress as against defendant R&S Erection, Inc. is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2); UMF 1-15.) Defendant has met its burden of showing that this cause of action has no merit. Plaintiff fails to raise a triable issue of material fact exists as to the second cause of action. There is no evidence attributing any outrageous conduct to R&S Erection, Inc. (*Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4<sup>th</sup> 727, 737-738.)

Defendant R&S Erection, Inc.'s motion for summary adjudication of the sixth cause of action for violation of FEHA is **GRANTED**. (Gov. Code, §§ 12926, subd. (d) & 12940; *Kelly v. Methodist Hospital of So. California* (2000) 22 Cal.4<sup>th</sup> 1108, 1116; UMF 9-15; Dec. of Zarodney ¶¶ 1-13.) Defendant has met its burden of showing that this cause of action has no merit. Plaintiff fails to raise a triable issue of material fact exists as to the second cause of action. The evidence shows that R&S Erection was neither plaintiff's nor Steven Bickle's employer, nor an agent of plaintiff's or Steve Bickle's employer.

R&S Erection Inc.'s motion for Summary Judgment is **GRANTED**. The evidence shows that there are no triable issues as to any material fact and defendant is entitled to judgment as a matter of law. (Code Civ. Proc., §437c, subd. (c);

Defendants Steven Bickle and R&S Architectural Products, Inc.'s motion for summary adjudication of the second cause of action for intentional infliction of emotional distress is **DENIED**. (Code Civ. Proc., § 437c; *Hughes v. Pair* (2009) 46 Cal.4<sup>th</sup> 1035, 1050; *Alcorn v. Anbro Eng., Inc.* (1970) 2 Cal.3d 493, 497-499; UMF 1-3; Dec. of Jennifer Kunde Davis, ¶¶ 1-4, 7-10, 13; Dec. of Akemon, ¶¶1-4, 7-16, 19; Dec. of Green, ¶¶1-15; Dec. of Samuel, Exhs. C & D.) Plaintiff's evidence shows that there is a triable issue of material fact as to whether Mr. Bickle's actions were extreme and outrageous and committed with the intention to cause or with reckless disregard of the probability of causing plaintiff's emotional distress. (*Hughes v. Pair* (2009) 46 Cal.4<sup>th</sup> 1035, 1050; *Alcorn v. Anbro Eng., Inc.* (1970) 2 Cal.3d 493, 497-499.)

Defendants' objections to plaintiff's evidence are **SUSTAINED**. (Evid. Code, §§702, 800, 802-803, & 1200.)

Defendants are directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.



**TENTATIVE RULING**

**Case:** **Mathews v. California Forensic Medical Group, et al.**  
**Case No. CV CV 09-3140**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

Defendant California Forensic Medical Group's motion to strike plaintiff James Mathews' verified complaint is **GRANTED IN PART**, as follows:

1. Plaintiff's reference to "defendant" as applied to Patrick Narvais is stricken. (Page 5:3-10.) Plaintiff does not name Mr. Narvais as a defendant in his complaint.
2. The totality of plaintiff's allegations at page 13, lines 15-22 are stricken. These allegations do not relate to deficient care provided by CFMG, so are irrelevant. (Page 13:15-22.)

Plaintiff shall file any amended complaint by **May 14, 2010**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**CASE:** **Yepez v. Sangha**  
**Case No. CV PM 08-1956**

**Hearing Date:** **May 6, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiffs' motion to quash the subpoena issued to Valley Oak Orthopedics is **GRANTED**. (*Tylo v. Superior Court of Los Angeles County* (1997) 55 Cal.App.4th 1379, 1388.) This subpoena is not limited to the injuries, body parts and conditions placed in controversy in the lawsuit.

Plaintiffs' motion to quash the subpoenas issued to Valley Oak Orthopedics, U.C. Davis Patient Financial Services, and U.C. Davis Professional Billing Group is **GRANTED**. Plaintiffs submitted evidence that they are personally liable for all charges by their medical care providers. (Exhibit D to Jensen Declaration.) There is no evidence that any medical care provider agreed to accept the payments from the plaintiffs' insurer as payment in full or that the plaintiffs cannot be liable to their medical care providers. (*Cf. Hanif v. Housing Auth. of Yolo County* (1988) 200 Cal.App.3d 635; *Nishihama v. City and County of San Francisco* (2001) 93 Cal.App.4th 298; *Katiuzhinsky v. Perry* (2007) 152 Cal.App.4th 1288.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.